

AMENDED IN ASSEMBLY JULY 10, 1997

AMENDED IN SENATE MARCH 31, 1997

SENATE BILL

No. 536

Introduced by Senator Mountjoy

February 24, 1997

An act to amend Sections 6601.3, 6601.5, 6604, 6609.1, 6609.2, and 6609.3 of, *and to add Section 6602.5 to*, the Welfare and Institutions Code, relating to sexually violent predators.

LEGISLATIVE COUNSEL'S DIGEST

SB 536, as amended, Mountjoy. Sexually violent predators.

(1) Under existing law, in effect until January 1, 1998, the Board of Prison Terms may order that a person who is screened as a sexually violent predator and referred to the State Department of Mental Health for full evaluation remain in custody for no more than 45 days.

This bill would delete the repeal date of this provision and would authorize the Director of Corrections to refer the person to the State Department of Mental Health for evaluation at a date that is less than 6 months prior to the inmate's scheduled release date, and the Board of Prison Terms to order imposition of a temporary hold on the inmate for up to 3 working days pending a probable cause hearing by the board, under specified circumstances. If probable cause is found at the hearing, the bill would authorize the board to order that the person remain in custody for full evaluation by the State Department of Mental Health, as described above,

for evaluation of the case by the county's designated counsel, and for a court hold, as specified. The bill would provide that no person may be placed in a state hospital pursuant to these provisions until there has been a determination that there is probable cause to believe that the person is likely to engage in sexually violent predatory criminal behavior.

The bill also would provide that the term of commitment of any person committed to the State Department of Mental Health as a sexually violent predator commences on the date upon which the court issues the order of the commitment and shall not be reduced by any time spent in custody prior to the order of commitment, nor shall any credits be applicable. The bill would specify that this provision does not constitute a change in, but is declaratory of, existing law.

(2) Existing law requires the State Department of Mental Health to notify local law enforcement officials 15 days prior to the scheduled release of a sexually violent predator.

This bill instead would require the department to notify local law enforcement officials 15 days prior to the submission to a court of its recommendation for community outpatient treatment for any person committed as a sexually violent predator or its recommendation not to pursue recommitment of the person.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6601.3 of the Welfare and
2 Institutions Code is amended to read:
3 6601.3. ~~(a) The Board of Prison Terms~~ If the inmate
4 was received by the Department of Corrections with less
5 than nine months of his or her sentence to serve, or if the
6 inmate's release date is modified by judicial or
7 administrative action, the director may refer the person
8 to the State Department of Mental Health for evaluation
9 in accordance with this section at a date that is less than
10 six months prior to the inmate's scheduled release date,
11 and the Board of Prison Terms may order imposition of
12 a temporary hold on the inmate for up to three working

1 *days pending a probable cause hearing by the board. If*
 2 *probable cause is found at the hearing, the board may*
 3 *order that a person referred to the State Department of*
 4 *Mental Health pursuant to subdivision (b) of Section 6601*
 5 *remain in custody for no more than 45 days for full*
 6 *evaluation pursuant to subdivisions (c) to (h) (i),*
 7 *inclusive, of Section 6601, for evaluation of the case by the*
 8 *county's designated counsel, and for the court hold*
 9 *imposed pursuant to Sections 6601.5 and 6602, unless his*
 10 *or her scheduled date of release falls more than 45 days*
 11 *after referral.*

12 ~~(b) This section shall remain in effect only until~~
 13 ~~January 1, 1998, and as of that date is repealed.~~

14 *SEC. 2. Section 6601.5 of the Welfare and Institutions*
 15 *Code is amended to read:*

16 *6601.5. (a) In cases where an inmate's parole prison*
 17 *term, return to custody, or temporary parole hold*
 18 *pursuant to Section 6601.3 will expire before a probable*
 19 *cause hearing is conducted pursuant to Section 6602, the*
 20 *agency bringing the petition may request an urgency*
 21 *review pursuant to this section. Upon that request, a*
 22 *judge of the superior court shall review the petition and*
 23 *determine whether the petition states or contains*
 24 *sufficient facts that, if true, would constitute probable*
 25 *cause to believe that the individual named in the petition*
 26 *is likely to engage in sexually violent predatory criminal*
 27 *behavior upon his or her release. If the judge determines*
 28 *that the petition, on its face, supports a finding of*
 29 *probable cause, the judge shall order that the person be*
 30 *detained in a secure facility until a hearing can be held*
 31 *pursuant to Section 6602. The probable cause hearing*
 32 *provided for in Section 6602 shall be held within 10*
 33 *calendar days of the date of the order issued by the judge*
 34 *pursuant to this section.*

35 ~~(b) This section shall remain in effect only until~~
 36 ~~January 1, 1998, and as of that date is repealed.~~

37 *SEC. 3. Section 6602.5 is added to the Welfare and*
 38 *Institutions Code, to read:*

39 *6602.5. No person may be placed in a state hospital*
 40 *pursuant to the provisions of this article until there has*

1 *been a determination pursuant to Section 6602 that there*
2 *is probable cause to believe that the individual named in*
3 *the petition is likely to engage in sexually violent*
4 *predatory criminal behavior.*

5 *SEC. 4. Section 6604 of the Welfare and Institutions*
6 *Code is amended to read:*

7 6604. The court or jury shall determine whether,
8 beyond a reasonable doubt, the person is a sexually
9 violent predator. If the court or jury is not satisfied
10 beyond a reasonable doubt that the person is a sexually
11 violent predator, the court shall direct that the person be
12 released at the conclusion of the term for which he or she
13 was initially sentenced, or that the person be
14 unconditionally released at the end of parole, whichever
15 is applicable. If the court or jury determines that the
16 person is a sexually violent predator, the person shall be
17 committed for *a period of two years to the custody of the*
18 *State Department of Mental Health for appropriate*
19 *treatment and confinement in a secure facility*
20 *designated by the Director of Mental Health, and the*
21 *person shall not be kept in actual custody longer than two*
22 *years unless a subsequent extended commitment is*
23 *obtained from the court incident to the filing of a new*
24 *petition for commitment under this article or unless the*
25 *term of commitment changes pursuant to subdivision (e)*
26 *of Section 6605. The two-year period of commitment shall*
27 *commence on the date upon which the court issues the*
28 *order of the commitment pursuant to Section 6604. The*
29 *two-year period shall not be reduced by any time spent*
30 *in custody prior to the order of commitment, nor shall any*
31 *credits be applicable to reduce the two-year period. Time*
32 *spent on conditional release shall not count toward the*
33 *two-year term of commitment, unless the person is*
34 *placed in a locked facility by the conditional release*
35 *program, in which case the time in a locked facility shall*
36 *count toward the two-year term of commitment. The*
37 *facility shall be located on the grounds of an institution*
38 *under the jurisdiction of the Department of Corrections.*

39 *SEC. 5. Section 6609.1 of the Welfare and Institutions*
40 *Code is amended to read:*

1 6609.1. (a) When the State Department of Mental
2 Health is considering a recommendation to the court for
3 community outpatient treatment for any person
4 committed as a sexually violent predator, it shall notify
5 the sheriff or chief of police, or both, and the district
6 attorney, who has jurisdiction over the community in
7 which the person may be released. The notice shall be
8 given at least 15 days prior to the department's
9 submission of that recommendation to the court and shall
10 include the name of the person who is scheduled to be
11 released and the community in which civil commitment
12 was established.

13 (b) When the State Department of Mental Health is
14 considering a recommendation not to pursue
15 recommitment of any person committed as a sexually
16 violent predator, it shall provide written notice of that
17 release to the sheriff or police chief, or both, and to the
18 district attorney, who has jurisdiction over the
19 community in which civil commitment was established.
20 The notice shall be made at least 15 days prior to the date
21 on which the notification is to be forwarded from the
22 department to the court that will consider the
23 department's recommendation not to pursue the
24 extension of the civil commitment.

25 Those agencies receiving the notice referred to in this
26 subdivision shall have 15 days from receipt of the notice
27 to provide written comment to the department
28 regarding the impending release. Those comments shall
29 be considered by the department, which may modify its
30 decision regarding the community in which the person is
31 scheduled to be released, based on those comments.

32 (c) If the court orders the immediate release of a
33 sexually violent predator, the department shall notify the
34 sheriff or chief of police, or both, and the district attorney,
35 who has jurisdiction over the community in which the
36 person is scheduled to be released at the time of release.

37 (d) The notice required by this section shall be made
38 whether or not a request has been made pursuant to
39 Section 6609.

1 (e) The time limits imposed by this section are not
2 applicable where the release date of a sexually violent
3 predator has been advanced by a judicial or
4 administrative process or procedure that could not have
5 reasonably been anticipated by the State Department of
6 Mental Health and where, as the result of the time
7 adjustments, there is less than 30 days remaining on the
8 commitment before the inmate's release, but notice shall
9 be given as soon as practicable. In no case shall notice
10 required by this section to the appropriate agency be
11 later than the day of release. If, after the 45-day notice is
12 given to law enforcement and to the district attorney
13 relating to an out-of-county placement, there is change of
14 county placement, notice to the ultimate county of
15 placement shall be made upon the determination of the
16 county of placement.

17 ~~SEC. 2.~~

18 *SEC. 6.* Section 6609.2 of the Welfare and Institutions
19 Code is amended to read:

20 6609.2. (a) When any sheriff or chief of police is
21 notified by the State Department of Mental Health of its
22 intention to make a recommendation to the court
23 concerning the disposition of a sexually violent predator
24 pursuant to subdivision (a) or (b) of Section 6609.1, that
25 sheriff or chief of police may notify any person designated
26 by the sheriff or chief of police as an appropriate recipient
27 of the notice.

28 (b) A law enforcement official authorized to provide
29 notice pursuant to this section, and the public agency or
30 entity employing the law enforcement official, shall not
31 be liable for providing or failing to provide notice
32 pursuant to this section.

33 ~~SEC. 3.~~

34 *SEC. 7.* Section 6609.3 of the Welfare and Institutions
35 Code is amended to read:

36 6609.3. At the time a notice is sent pursuant to
37 subdivision (a) or (b) of Section 6609.1, the sheriff, chief
38 of police, or district attorney so notified shall also send a
39 notice to persons described in Section 679.03 of the Penal
40 Code who have requested a notice, informing those

1 persons of the fact that the person who committed the
2 sexually violent offense may be released, together with
3 information identifying the court that will consider the
4 conditional or unconditional release. When a person is
5 approved by the court to be conditionally released, notice
6 of the community in which the person is scheduled to
7 reside shall also be given only if it is (1) in the county of
8 residence of a witness, victim, or family member of a
9 victim who has requested notice, or (2) within 25 miles
10 of the actual residence of a witness, victim, or family
11 member of a victim who has requested notice. If, after
12 providing the witness, victim, or next of kin with the
13 notice, there is any change in the release status or the
14 community in which the person is to reside, the sheriff,
15 chief of police, or district attorney shall provide the
16 witness, victim, or next of kin with the revised
17 information.

18 In order to be entitled to receive the notice set forth in
19 this section, the requesting party shall keep the sheriff,
20 chief of police, and district attorney who were notified
21 under Section 679.03 of the Penal Code, informed of his
22 or her current mailing address.

23 *SEC. 8. The Legislature finds and declares that the*
24 *provisions of Article 4 (commencing with Section 6600)*
25 *of Chapter 2 of Part 2 of Division 6 of the Welfare and*
26 *Institutions Code establish a civil mental health*
27 *commitment for a period of two years for persons found*
28 *to be sexually violent predators and that, consistent with*
29 *a civil mental health commitment, the period of*
30 *commitment begins when the order of commitment is*
31 *made and credits that may reduce a term of*
32 *imprisonment are not applicable. Accordingly, the*
33 *Legislature finds and declares that Section 4 of this act,*
34 *which amends Section 6604 of the Welfare and*
35 *Institutions Code, does not constitute a change in, but is*
36 *declaratory of, existing law.*